
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order No. 45 (2012)

Implementation of House Bill 9 and Senate Bill 1 Relating to Identification Requirements for Voters at the Polling Place on Election Day

Importance of the Issue

Protecting the integrity and reliability of the electoral process in Virginia is a critical state interest. The state must ensure that the rule of “one person, one vote” applies for all citizens. For the citizens of the Commonwealth of Virginia to have faith in their government, they must have faith in their elections. This means that government must ensure open, honest, and secure elections. As such, Virginia has an interest in deterring and detecting voter fraud. Documented cases of voter fraud have occurred both in Virginia and in other parts of the United States. Virginia’s history of some close elections demonstrates that voter fraud could negatively affect an election decided by a very small number of votes.

Any effort in increasing the integrity and reliability of the electoral process must be non-discriminatory and take into account any potential burdens imposed on eligible voters in Virginia, especially on groups of voters that have, historically, faced difficulties in voting. These voters include the elderly, poor, racial minority groups, non-native English speakers, and the disabled. All eligible voters regardless of income, race, age, and other factors should be able to have equal access to the electoral process and should be made aware of any changes that may impact their ability to vote.

Enactment of House Bill 9 and Senate Bill 1

Virginia’s current laws already require voters to bring one of a number of identification cards or documents to the polling place on Election Day in order to cast a vote. If such identification is not produced, then the voter may cast the ballot after signing an affirmation of identity form, subject to

felony penalties for false statements.

Today I have signed House Bill 9 and Senate Bill 1, bills that aim to increase the integrity and reliability of the voting process in Virginia. Senate Bill 1 was signed last to ensure any differences between it and House Bill 9 take legal effect. Those voters who arrive at the polling place without a valid form of identification shall be permitted to vote a provisional ballot which shall be counted so long as the voter provides a copy of one of the numerous and expanded types of acceptable forms of identification to their local electoral board within three days after the election. The identification can be provided by fax, e-mail, mail, commercial delivery, or in person. These bills also seek to increase access to the electoral process by adding to the current list of forms of identification allowed at the polls on Election Day including college IDs, utility bills, bank statements, and paychecks. With the enactment of House Bill 9 and Senate Bill 1, Virginia has taken steps towards protecting against voter fraud and increasing the public's confidence in the election system.

In implementing this legislation, my administration and local election officials will take all appropriate steps to implement this legislation without adding inconvenience, confusion, or hardship to the Commonwealth's voters. Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to §§ 2.2-103 and 2.2-104 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the State Board of Elections and request that local election officials take several ameliorative steps described in this Executive Order.

Specifically, this Executive Order directs the State Board of Elections to take necessary steps to ensure that all eligible Virginia voters are made aware of the provisions of these new laws and are given the necessary information in order to provide an appropriate form of identification when voting. This Executive Order requests that local election officials cooperate in these efforts. This Executive Order also directs the State Board of Elections to provide all registered voters with a new voter registration card, one of the acceptable forms of identification for use at the polling place. Finally, this Executive Order requests that the State Board of Elections and local election officials report certain data to me following the November 6, 2012, and November 5, 2013, General Elections.

Availability and Issuance of Voter Registration Cards

The State Board of Elections shall take all necessary measures to ensure that all Virginia's voters are provided, free of charge, an acceptable form of identification for use at the polling place. By October 1, 2012, the State Board of Elections shall mail a new voter registration card to all Virginia voters. The instructions provided in the voter registration card mailing shall include an explanation of Virginia's new voter identification requirements and the need to bring the individual's voter registration card or other acceptable form of identification to the polls on Election Day. The instructions shall also explain that failure to provide an acceptable form of identification at the polls on Election Day will require the voter to vote a provisional ballot and thereafter provide a copy of an approved identification by fax, e-mail, in-person submission, or timely mail or commercial delivery by noon on the Friday immediately following the election.

I also request that the general registrars mail, free of charge, new voter registration cards to all registered voters who request them.

Voter Outreach Campaign

I also direct the State Board of Elections to engage in a voter outreach campaign between now and

the November General Election to educate voters about the changes to Virginia's voter identification requirements. This outreach campaign will educate the Commonwealth's voters on the following issues:

1. That identification is required at the polling place and that voters who do not bring identification to the polling place or who refuse to provide identification at the polling place will be required to vote a provisional ballot;
2. The list of identification documents that are accepted at the polling place, including the additional forms of identification now allowed as a result the enactment of House Bill 9 and Senate Bill 1;
3. That those voting provisional ballots at the polling place because they failed to provide identification will have until noon the Friday after the election to provide a copy of their identification;
4. To explain to voters the means by which they may deliver an acceptable form of identification to the registrar, including by mail, fax, electronic mail, and in-person delivery;
5. To explain to voters how they may obtain a voter registration card, if needed; and
6. Provide contact information of the State Board of Elections and local registrar offices for voters to receive answers to any additional questions.

I direct the State Board of Elections to utilize newspaper advertisements, the internet, social media, television and radio (including Public Service Announcements), direct mail, public notices in state and local buildings, voter registration offices, polling places and other means to communicate the information described above to Virginia voters.

I direct the State Board of Elections to coordinate with local election officials, interested third-party groups including, but not limited to, the League of Woman Voters, the NAACP, Virginia's political parties, and other organizations to help educate voters about Virginia's voter identification requirements.

I direct the State Board of Elections to ensure that its voter outreach efforts are directed at all regions of the Commonwealth and in all 134 localities.

I encourage local general registrars and electoral board members to conduct their own outreach efforts in coordination with the State Board Elections. General registrar and electoral board outreach at the local level should target local voters through local media, including radio and television, and print, making efforts to educate voters through outreach to various local community groups.

I direct the State Board of Elections to regularly report to me on the status of the outreach efforts from the date of implementation, July 1, 2012, through the November 6, 2012 General Election.

State Board of Elections Regulations

I request the State Board of Elections to promulgate a regulation that will provide that general registrars and electoral boards have the discretion to telephonically contact individuals voting provisional ballots for reason of lack of identification and remind those provisional voters that they are permitted to provide a copy of identification to the electoral board by noon on the Friday after the election.

Tracking of Provisional Ballot Statistics

I direct the State Board of Elections to coordinate reporting of all provisional ballots cast in the November 6, 2012, and November 5, 2013, General Elections. I hereby request that General Registrars and electoral boards track provisional votes by type, including provisional votes cast for

reasons of a lack of identification. This information shall also include how many voters provided the necessary type of identification after casting a provisional ballot. Such reporting shall be tracked at the precinct level and timely reported to the State Board of Elections following the November 6, 2012, and November 5, 2013, General Elections.

I direct the State Board of Elections to report to me the statistics on the numbers of provisional ballots cast by category and the number of provisional ballots counted by category in the 2012 and 2013 General Elections by January 1, 2013, and January 1, 2014, respectively.

Effective Date of the Executive Order

This Executive Order shall become effective upon its signing and shall remain in full force and effect until February 1, 2014, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this the eighteenth day of May, 2012.

/s/ Robert F. McDonnell, Governor

Attest:

/s/ Secretary of the Commonwealth